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Division of Family and Economic Security

Bureau of Working Families

To: TJDP Contractors, Subcontractors, and Staff

From: Angela Davis, Contract Manager
Transitional Jobs Demonstration Project
Bureau of Working Families
Division of Family & Economic Security

Transitional Jobs Memo

No: 12-02

Date: 08/21/2012

Subject: Notice of Unemployment Insurance Policies
Regarding TJDP Employer Registration and
Taxation, UI Benefits Paid to Transitional Jobs
Workers

The Department of Workforce Development (DWD) Division of Unemployment Insurance (UI) Bureau of Tax and Accounting has determined that wages paid to Transitional Jobs workers in subsidized jobs as part of the Transitional Jobs Demonstration Project (TJDP) are not subject to unemployment insurance taxes. Neither the employer of record nor the subsidized job work site is to pay any UI tax on the subsidy wages and any supplemental wages paid to TJ workers during the Subsidized Phase of the program. The TJDP is a Temporary Assistance for Needy Families (TANF) subsidized jobs program that provides job training and work opportunities to disadvantaged adults with high barriers to employment. This work falls under one of the many work categories for which UI tax is not applicable.

The Division of Unemployment Insurance Bureau of Legal Affairs made the determination that subsidized work in the Transitional Jobs Demonstration Project is excluded from UI tax under Wisconsin Statute 108.02 (15) (g) 2 (<http://docs.legis.wi.gov/statutes/statutes/108/02/15/g/2>). The UI Bureau of Benefits identified Wisconsin Statute 108.02 (15) (g) 1 (<http://docs.legis.wi.gov/statutes/statutes/108/02/15/g/1>) as applicable when considering TJ worker wages for UI benefit determinations. These statutes specify inclusion and exclusion rules for subsidized work when defining “employment” for Unemployment Insurance decisions.

Implications to Employers of Record

- **UI Reporting Exclusions** – TJDP contractors and other employers of record are to stop reporting TJDP subsidized job wages for UI. The number of TJ workers (in the subsidized phase) and the amount of wages paid to TJ workers (in the subsidized phase) should not be included in employer calculations of employees and wages reported to UI. When responding to UI Bureau of Benefits correspondence regarding TJ worker UI benefit

claims, contractors and other employers of record are to report the following for any work that is TJDP subsidized work/training:

- **UCB-16, Separation Notice:** Complete the form. Check the “Never worked for you” box in item #1; and report TJ worker’s relationship with employer as TANF Wisconsin Department of Children and Families Transitional Jobs Demonstration Project subsidized work program participant (include start and end dates of subsidized work activity) in item #5 text box.
- **UCB-23 Wage Verification Report:** Complete the form. Check “Excluded Employment” box in item #6.
- **UCB-719 Urgent Request for Wages:** Complete the form. Enter wages and write “excluded” after the wage entry.

Note that the UI Bureau of Benefits computes TJ worker UI benefits based on whether the TJDP subsidized work wages were paid by a for-profit or a non-profit or government employer. TJDP subsidized work wages paid by a **non-profit or government agency** employer of record will not be included in a TJ worker’s UI benefit determination computation. TJDP subsidized work wages paid by a **for-profit** employer of record will be calculated into a TJ worker’s UI benefit computation. While UI Tax and Accounting has determined all wages paid by all employers of record for subsidized work in the TJDP are excluded from employer UI tax, and employers are not liable for UI benefit taxes, the UI Bureau of Benefits may still deem a TJ worker eligible for UI benefits based on TJDP subsidized work wages paid by for-profit employers of record. The cost of awarding these benefits are absorbed in the UI system.

- **Record of UI Benefit Liability of Employees** – Contractors and other employers of record should have a record of UI benefit liability of employees from DWD UI reports sent to them on an ongoing basis, including Form UCB-701, Computation of Unemployment Insurance Benefits; and Form UCB-7074, Unemployment Insurance Benefit Charges and Adjustments Report. Employers should review these records to determine which, if any, of the TJ workers served by the employer were paid UI benefits that were determined to be the liability of the employer and report adjustment requests to UI as applicable.
- **Payment and Wage Adjustment Requests** – Contractors or other employers of record need to submit payment adjustment and wage adjustment requests to UI for UI tax/benefit payments already paid in error. The form may be accessed online: <http://dwd.wisconsin.gov/uitax/> (under the “Enter Tax and Wage Adjustment Reports Online” link). UI payment adjustments made for TJ contractors must be reflected in TJ contractor future financial reporting to DCF.
- **Employer UI Tax Rate Adjustments** – UI employer tax rate adjustments, if applicable, will be made in the next calendar year, after the wage adjustment reports have been submitted, investigated and processed. Employer tax rates are frozen for the current calendar year as of February 28, 2012 and will not be updated. Any adjustments made to quarters that are part of the fiscal year payroll used to calculate the 2012 tax rate will be reflected in the 2013 tax rate. These adjustments may be applicable for contractors and

other employers of record that experienced an increase in UI tax rates due to TJ worker UI benefit claims paid to date.

- **Guidelines for Registering New Hire Data** – The DWD Division of UI has indicated that employers of record participating in the TJDP, and those employers serving as transitional job sites, do not need to register on the UI website unless they hire individuals (former subsidized TJ workers and other non-TJ affiliated employees) for unsubsidized employment. When registering with UI, employers may report the total number of employees, including any new hires from the TJ program entering unsubsidized employment with the employer, and excluding any TJ subsidized workers starting or continuing in subsidized work roles at the site. Employers that hire TJ workers for unsubsidized employment must record the hire and wages to UI within two weeks of the hire. New hires of unsubsidized workers are to be reported online: <http://newhire-reporting.com/WI-Newhire/default.aspx>.
- **DWD UI Handbook for Employers, Sections 2-5** – For further details and instructions related to worker unemployment tax, adjustments, and wage and new hire reporting matters, all employers may refer to Sections 2-5 of the Wisconsin Unemployment Insurance Handbook for Employers online: <http://dwd.wisconsin.gov/ui201/>.

Implications to Transitional Jobs Workers Who Have Received UI Benefits

- **UI Claim Holds and Changes** – When UI becomes aware that there is an issue on a person's UI claim that can potentially affect his or her eligibility for UI benefits, a hold is placed on the claim until the issue has been investigated and resolved. If it is determined that the TJ worker's claim is based entirely on work that is excluded under statute 108.02 (15) (g) 1 or 108.02 (15) (g) 2, then the TJ worker will no longer have a UI claim. The only exception to this will be if the TJ worker had a prior UI claim upon which he or she could be paid under a federal extension. While possible, this is unlikely, given TJ workers were not eligible for UI benefits prior to entering the TJDP. If it is found that the TJ worker's UI claim is based on other employment as well as the excluded subsidized employment, the maximum amount of UI benefits that he or she is entitled to during the life of his or her claim will likely be reduced. Additionally, the weekly payment amount will likely be reduced. This will depend on whether or not high quarter earnings (on which the claim is based) are affected.
- **Stop in UI Benefit Payments** – TJ workers currently receiving UI benefits could potentially experience a stop in UI benefit payments or have reduced UI benefit payments. Individual TJ worker circumstances vary, so the impact will vary. Communications with a TJ worker about a UI claim investigation will occur shortly after UI is made aware of potentially excluded employment based on TJDP participation. After the fact-finding investigation into the TJ worker's eligibility issue is completed, he or she will be issued a legal initial decision that is mailed immediately which notifies him or her the affect on the UI claim. If the TJ worker still qualifies for a UI claim based on other work, he or she will also be mailed a separate re-computation of UI benefits shortly thereafter.
- **UI Benefit Overpayments** – Any UI benefit overpayments to TJ workers determined to be the fault of the employer of record are considered the employer's responsibility. In general, the TJ employer of record would likely be considered at fault for the

overpayments, since the employer did not complete the appropriate employment exclusion box when previously submitting the UI forms, UCB-16 Separation Notice; UCB-23 Wage Verification Report; and UCB-719 Urgent Request for Wages. This means that TJ workers would not likely be responsible for paying back any monies from UI benefit claim overpayments based on TJ wages. There may be unusual individual circumstances that would lead to the determination that the TJ worker is at fault for the overpayment.

- **DWD UI Handbook for Employers, Section 1** – The Wisconsin Unemployment Insurance Handbook for Employers, Section 1, "Benefits", Part 3 addresses questions related to worker UI benefits: <http://dwd.wisconsin.gov/ui201/#benefits>.

Additional Information

Contact the DWD UI Bureau of Tax and Accounting regarding questions about employer taxes on TJ wages. Contact the DWD UI Bureau of Benefits regarding questions about TJ worker UI benefits. Refer to the UI website for more information:

http://dwd.wisconsin.gov/ui/ui_contacts.htm.

For questions about this memo, contact Angela Davis, Transitional Jobs Contract Manager at (608) 266-3034 or angela.davis@wisconsin.gov.